

Legal Terms

1. Affidavit — A statement of facts made voluntarily before a person authorized to administer the oath or affirmation (usually a notary public) and submitted to the court in support of a motion or order.
2. Arrears — Money for child or spousal support that has not been paid and is past due.
3. Child Support — Money that a parent pays to the other for the support of their child(ren) that can be paid from a non-custodial parent to a custodial parent or might be necessary in a shared placement formula depending on the differences in income.
4. Collaborative Divorce — This is a divorce process for a non-litigation resolution in which the parties and their attorneys enter into a formal agreement not to submit any contested issues to the court but rather use a specialized non-adversarial process to negotiate to resolve all issues by agreement. This process allows parties to a dispute to avoid the stress of going to court and instead work together to reach a win-win outcome.
5. Counterclaim - The respondent may claim that he or she has grounds for the divorce that he or she wishes the court to consider. A Counterclaim is identical to the Petition except it is filed by the respondent against the petitioner.
6. Court Commissioner — this is an attorney that is appointed by the judges of a county who will preside at all temporary hearings and may enter judgments in actions concerning child support or maintenance. All decisions by a court commissioner are reviewable by the judge assigned to the case at the request of either party.
7. Custody — Legal custody refers to the right to make important decisions about your minor child(ren) regarding their education, healthcare, religion, etc. This can either be sole or joint. Sole custody means that one parent gets to make all the major decisions while joint custody means that the parents are supposed to make the decisions together or that, in an emergency situation, either parent has the right to make those decisions.
8. Demand to Produce — a party may request the opposing party to produce documents in the opposing party's possession or control that are relevant to the issues of the action. Both notice of oral deposition and a subpoena can include a provision for the production of documents.
9. Deposition — a deposition is testimony under oath. You will be asked questions by the opposing attorney and, in some cases, by your own attorney and the questions and your answers to them will be recorded by an official court reporter. There is little difference between the testimony at depositions and the testimony in the courtroom except that, at a deposition, there is no judge ruling over the

matters as they arise. Depositions are often much more in depth than the questioning would end up being at trial. If we receive notice that your deposition will be taken by the opposing attorney, we will provide you with more detailed information about depositions at that time.

10. Family Support — this is a financial order that substitutes for child support and maintenance orders. It may be tax deductible/reportable. It is subject to complex tax rules.
11. Findings of Fact, Conclusions of Law and Judgment of Divorce — the court makes formal Findings of Fact, Conclusions of Law and Judgment of Divorce in a formal written document usually prepared by the petitioner's attorney and signed by the judge. This is the legal document that grants a divorce, property division, support and maintenance, and any other legal relief as the court may order at the time of the final hearing.
12. Individual Property — Property acquired by gift or inheritance before the marriage or during the marriage is individual property. Gifts between spouses are marital property.
13. Interrogatories — Written questions served by the opposing party that must be answered in writing as part of the discovery process within 30 days. If the other party does not answer the interrogatories, they can be held in contempt.
14. Joint Legal Custody — Joint legal custody is a condition under which both parties share legal custody and neither party's rights are superior except if specific decisions are to be made by one parent pursuant to the parties' agreement or the court's order or judgment.
15. Maintenance/Alimony/Spousal Support — financial payments made to help a spouse or former spouse while the parties are separated, divorced or following a divorce or legal separation. These payments are tax deductible to the payer and reportable as income by the payee if they are made in connection with the divorce or separation and meet the tax rules.
16. Marital Property — all property of the parties is presumed to be marital property unless classified otherwise. Each spouse has a present undivided half interest in each item.
17. Mediation — Mediation is a cooperative process involving you, your spouse and a mediator. The purpose of which is to help the two of you by applying communication and dispute resolution skills, define and resolve your disagreements in the best interest of your child(ren) as the paramount consideration.
18. Mediator — this is a person with special skills and training in dispute resolution.
19. Mixed Property — Property that has marital and non-marital (individual) components is called mixed property and is treated as marital property unless the non-marital component can be traced. Note that

the substantial uncompensated efforts of their spouse relating to individual or marital property can create mixed property.

20. Motion/Order to Show Cause — this is a written request that the court make an order. A hearing will be held to determine whether or not the motion should be granted. It is most often used shortly after the divorce action is commenced for the purposes of obtaining a temporary order regarding custody, placement, support and other matters. It may also be used to obtain a change in the previous court order or judgment or to commence contempt proceedings for failure to abide by previous orders.
21. Petition — The Petition sets forth many statistical facts about the marriage and the parties and also states that the marriage is irretrievably broken (divorce) or that the marital relationship is broken (legal separation). The Petition is served with the Summons.
22. Petitioner — the Person who files a legal proceeding in a family law matter.
23. Physical Placement — Physical placement is different than custody. This is the condition under which a party has the right to have the child(ren) physically placed with that party and has the right and responsibility to make during that placement routine daily decisions regarding the child(ren)'s care consistent with the major decisions by the person having legal custody.
24. QDRO — An Order issued by the court to divide retirement benefits. Preparation of the QDRO requires an Order to be drafted.
25. Respondent — the person whom a legal proceeding is filed against in a family law matter.
26. Response — the respondent may deny that the marriage is irretrievably broken. Normally this must be done within 20 days after the Petition is served. In a Response, it would also indicate what kind of custody the respondent would like as to the child(ren).
27. Restraining Order/Harassment Injunction — An Order issued by a court to restrain or prevent a person from doing something (i.e., harassing, intimidating or threatening another person). These are frequently issued in conjunction with domestic violence or custody issues.
28. Sole Legal Custody — Sole legal custody is a condition under which one party has legal custody.
29. Stipulation or Agreement — a Stipulation is a formal written agreement between the parties and their attorneys. It can cover any subject. Stipulations are used by the parties to agree on the provisions of the final judgment. If there is a stipulation or agreement regarding terms of the final judgment, the divorce is considered to be a default divorce. Default divorces in which there is a stipulation or agreement are less complicated, less costly and scheduled more quickly than contested divorces.

30. Summons — The Summons is used to begin the divorce action. It must be personally served on the respondent. If the respondent cannot be located, the action is started by publishing the Summons in a local newspaper at the respondent's last known address.
31. Temporary Order — this is the Order of the Court (usually by a court commissioner) setting forth the rules that are effective prior to the final hearing on the divorce. The Temporary Order usually covers such items as custody, placement, support, temporary attorney's fees, temporary use of the home and other property of the parties and payment of bills and mortgages.

THIS GLOSSARY AND INFORMATION INCLUDED IN IT SHOULD NOT BE USED AS A SUBSTITUTE FOR LEGAL ADVICE. SPECIFIC LEGAL ISSUES, CONCERNS AND CONDITIONS ALWAYS REQUIRE THE ADVICE OF A COMPETENT LEGAL PROFESSIONAL.